

**COMPLAINT INVESTIGATION SUMMARY**

COMPLAINT NUMBER:	1997.03
COMPLAINT INVESTIGATOR:	Connie Rahe
DATE OF COMPLAINT:	February 5, 2003
DATE OF REPORT:	March 6, 2003
REQUEST FOR RECONSIDERATION:	yes/revised - April 17, 2003
DATE OF CLOSURE:	June 23, 2003

**COMPLAINT ISSUES:**

Whether the Jay School Corporation violated:

511 IAC 7-27-7(a) by failing to implement the student's individualized education program (IEP) as written, specifically, by failing to provide instructional accommodations.

511 IAC 7-21-2 by failing to ensure an appropriately licensed teacher provided or supervised special education and related services to the student while at an alternative school (setting).

In the course of the investigation of the above-referenced complaint, the following additional issues have been identified:

IAC 7-27-4(a)(2) by failing to meet in case conference committee (CCC) within 12 months of the preceding CCC meeting to determine whether the annual goals for the student are being achieved.

511 IAC 7-27-7(d) by continuing to implement the Student's IEP for more than 12 months after the initiation date on the IEP.

**FINDINGS OF FACT:**

1. The Student is seventeen years old, attends the local high school (the School), and qualifies for special education and related services under the category of hearing impairment (HI) and communication disorder (CD).
2. The Student's current IEP contains the accommodation of being provided a study guide to high-light while the general education teacher is providing instruction in the classroom and to pre-teach vocabulary to accommodate the Student's low reading level. The Student has not been provided these accommodations in each class, as written in the IEP.
3. The Student was assigned to serve days of suspension in a disciplinary day-school at the Boys' Club (the day-school) that is run by the School. An aide supervised the program while the Student was attending the day-school. The Student's TOR collected assignments from the Student's teachers and had them sent to the day-school and was available if phoned, but did not provide direct assistance or supervision to the Student. The Student's IEP provides for the level of support within the general education classes to be "direct assistance in class." Assistance with directions, rewording questions, and assistance with vocabulary are to be provided for assignments. No licensed teacher was present while the Student

attended the day-school to provide such assistance. However, the days the Student served at the day-school were counted towards the allowable 10 days of suspension as stated in 511 IAC 7-29-1. In this out-of-school setting, the School provided the Student the opportunity to complete assignments that are credited.

4. The Student's current IEP was finalized on December 12, 2001, and had an initiation date of January 2, 2002, and duration date of January 2, 2003. The School contacted the Complainant between October 29, 2002, and December 2, 2002, to schedule a case conference committee (CCC) meeting to review and revise the Student's IEP before the expiration date. The Complainant requested that the annual case review (ACR) not be held until a private educational evaluation report is available for discussion with the CCC. The School sent a letter on December 2, 2002, stating that the Student's current IEP would be continued until the end of the school year unless a new CCC meeting is held. The test results are still pending, as of the date of this report, and no CCC meeting has been scheduled to review the Student's expired IEP.

## **CONCLUSIONS:**

1. Findings of Fact #2 indicates that the Student did not receive the IEP accommodation of being provided a study guide to high-light while the general education teacher provided instruction in the classroom, and to pre-teach vocabulary to accommodate the Student's low reading level. Therefore, a violation of 511 IAC 7-27-7(a) is found for failing to implement the student's IEP as written.
2. Findings of fact #3 indicates that the School did not have to ensure an appropriately licensed teacher was available to supervise special education and related services while the Student was serving days of suspension that counted towards the allowable 10 days as specified in 511 IAC 7-29-1. Therefore, a violation of 511 IAC 7-21-2 is not found.
3. In the course of this investigation, as Findings of Fact #4 indicates, it was identified that the Student's IEP had expired. No CCC meeting had been held to review the IEP before determining that the goals and objectives would continue until the end of the school year. Therefore, a violation of 511 IAC 7-27-4(a)(2) is found for failing to meet in CCC to review and revise, as needed, the Student's IEP within 12 months of the initiation date on the IEP.
4. Findings of Fact #4 also indicates, with reference to conclusion #3, the School continued to implement the IEP for more than 12 months, with the knowledge that the IEP duration date had been exceeded, as indicated in the letter to the Complainant of December 2, 2002. Therefore, a violation of 511 IAC 7-27-7(d) is found.

## **CORRECTIVE ACTION:**

**The Department of Education, Division of Exceptional Learners requires the following corrective action based on the Findings of Fact and Conclusions listed above:**

The Jay School Corporation shall:

1. Convene a CCC meeting to review and revise the student's last agreed upon IEP with specific accommodations and modifications for the Student's low reading and written language levels, and hearing impairment. The CCC will determine how services will be provided for the Student to ensure receiving academic support in order to complete the assignments for all classes. The CCC report shall

document the discussion and determination regarding supportive services agreed to in the CCC. A copy of the IEP shall be forwarded to the Division by May 16, 2003.

2. A memorandum shall be circulated to general education staff at the high school informing them of the requirements under 511 IAC 7-27-7(a) to implement the student's IEP, as written, and to seek clarification of any IEP requirements from the student's TOR. A copy of the memorandum and an assurance statement, signed by the director and the high school principal, stating that all teachers have reviewed the memorandum, shall be forwarded to the Division no later than May 16, 2003.
3. Each of the Student's teachers of service shall:
  - a. sign acknowledgement that they have each received a copy and explanation of the IEP, including accommodations and modifications;
  - b. sign agreement to implement the student's IEP, as written; and
  - c. sign agreement to seek clarification of any IEP requirements from the assigned TOR.

A copy of the signed assurance statements shall be forwarded to the Division no later than May 16, 2003.

4. A memorandum shall be circulated to all special education teaching staff and special education and general education administrators:
  - a. reminding them of the requirements for a CCC to convene under 511 IAC 7-27-4(a); and
  - b. reminding them of the requirement under 511 IAC 7-27-7(d), that no public agency shall continue to implement an IEP for more than 12 months, unless extended under a stay-put provision.

A copy of the memorandum and an assurance statement, signed by all special education teaching staff and special education and general education administrators, along with their titles, stating that they agree to comply with the above requirements, shall be forwarded to the Division no later than May 16, 2003.